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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking Regarding Policies, Procedures and Incentives for Distributed Generation and Distributed Energy Resources	RULEMAKING 04-03-017 (Filed March 16, 2004)

Response of the California Center for Sustainable Energy to FuelCell Energy's Petition for Modification of Decision 04-12-045

California Center for Sustainable Energy

August 24, 2007

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I. INTRODUCTION

The California Center for Sustainable Energy (CCSE), formerly known as the San Diego Regional Energy Office (SDREO), appreciates the opportunity to respond to FuelCell Energy's (FCE's) *Petition for Modification of Decision 04-12-045* (Petition for Modification). FCE filed its Petition for Modification on July 25, 2007, requesting that Decision (D.) 04-12-045 be modified to increase the incentive cap under the Self-Generation Incentive Program (SGIP) from the current limit of 1 MW to 3 MW. Pursuant to Rule 16.4 (f) of the California Public Utilities Commission (CPUC or Commission) Rules of Practice and Procedure, CCSE respectfully responds to the Petition for Modification as follows:

- CCSE supports the increase of the SGIP incentive cap from 1 MW to 3 MW, with the following caveats:
  - The increase should only be permitted for technologies identified as renewable under the SGIP;
  - The increase should not take effect during the current program year; and
  - The increase should not be retroactively applied.
- CCSE supports increasing the SGIP budget to accommodate increased participation in SGIP.

- CCSE proposes that an incentive approach alternative be developed that will prevent monopolization of SGIP funds by only a few larger system customers.
- CCSE encourages the Commission to engage in a thorough analysis of SGIP budgetary needs and any potential impacts resulting from the change, including those supported and proposed by CCSE in this Response.

II. CCSE SUPPORTS THE INCREASE OF THE SGIP INCENTIVE CAP FROM 1 MW TO 3 MW, WITH THE FOLLOWING CAVEATS:

A. The increase should only be permitted for technologies identified as renewable under the SGIP.

CCSE supports FCE's proposed modification to D. 04-12-045 to increase the incentive cap for all eligible SGIP renewable technologies, i.e., wind and technologies that use renewable fuel, from 1 MW to 3 MW. In their Petition for Modification, FCE emphasizes the benefits of this policy change in terms of increased penetration of renewables-based technologies. We agree. While we recognize that all types of CHP technologies provide efficiency gains over status quo generation projects without a thermal component, the additional burden of designing and implementing renewables-based installations—as well as the additional GHG emission reductions realized by them—merits an added incentive for those technologies.

CCSE believes that the need for greater than 1 MW of capacity and associated SGIP funding by potential large-scale SGIP customers (e.g., wastewater treatment plant operators, as suggested by FCE) may have discouraged program participation.[1] We agree with FCE's assertion that the proposed increase in the SGIP incentive cap to 3 MW is needed for development of the market for cost-effective fuel cell technology at host facilities that need larger-scaled projects.[2] In addition, wind and renewable fuel technologies have been proven by the annual SGIP Impacts Reports to have the

[1] *FuelCell Energy Petition for Modification of Decision 04-12-045*, July 25, 2007, page 5.
[2] id. at page 4.

greatest GHG emission reductions per MWh of generation installed under the SGIP.[3] At the same time, certain issues will need to be addressed for a smooth transition to the new incentive cap. We detail these issues in the following sections.

B. The increase should not take effect during the current program year.

If the SGIP incentive cap is increased from 1 MW to 3 MW, CCSE proposes that this change not take effect until at least the 2008 program year. Implementation of this change in the current program year would be confusing to applicants. The processes for application and payment of incentives should be as clear, transparent, and predictable as reasonably possible, and CCSE believes that every effort should be made to prevent any confusion and resulting negative perception of the SGIP on the part of its customers. Furthermore, implementation of this change in the current program year could negatively affect current year budgets. For the greatest success of the SGIP, any potential negative effects on the current year budgets should be minimized. Thus, in postponing the implementation of this change until at least the start of the new program year, uncertainty on behalf of the applicants will be prevented, as will any potential negative effects on the current year budgets, allowing for a smooth transition to the new incentive cap.

C. The increase should not be retroactively applied.

For the smoothest transition for SGIP customers and Program Administrators (PAs) alike, CCSE proposes that the increase not be retroactively applied. FCE's Petition for Modification does not address whether SGIP customers that have previously installed and received incentives up to 1 MW would now be eligible (pending eligibility of the technology in the effective Program Year) for additional incentives on a system addition. CCSE proposes that customers who have installed self-generation systems smaller than 3 MW continue to be eligible for the program, although the incentives they have already received would count towards their tier one incentive rate (up to 1 MW). No additional incentive would be paid to past customers who have installed systems up to 3 MW but only received incentives for the first MW. The change should apply *only* to applications received *after*

[3] Please refer to Table 1-9 of the CPUC Self-Generation Incentive Program Fifth Year Impacts Report, page 13 of the Executive Summary (Section 1).

the modifications to D. 04-12-045 occur. This will keep the application process and payment of incentives as simple, transparent, and predictable as possible, allowing for the greatest success of the SGIP program.

III. CCSE SUPPORTS INCREASING THE SGIP BUDGET TO ACCOMMODATE INCREASED PARTICIPATION IN SGIP

While the proposed change in the incentive cap will likely lead to a much desired increase in participation in the SGIP, especially at the 2-3 MW level, available SGIP funds could be more rapidly depleted. CCSE disagrees with FCE's qualification of a 300% increase in the SGIP incentive cap as a "modest increase" [4] because the budgeting implications associated with this change could be massive.

Currently, CCSE has incentive reservations under review that once reserved would utilize the majority of the 2007 Level 2 incentive funding. It is expected that with a higher capacity cap for applicants, retaining the same budget would lead to insufficient funding in each subsequent Program Year. CCSE thus supports FCE's recommendation "that the Commission authorize additional funding to support such additional allocations per program year…."[5] Increasing the SGIP budget will prevent any negative impacts to the budget associated with resulting increased numbers of projects and increased administrative costs.

IV. CCSE PROPOSES THAT AN INCENTIVE APPROACH ALTERNATIVE BE DEVELOPED THAT WILL PREVENT MONOPOLIZATION OF SGIP FUNDS BY ONLY A FEW LARGER SYSTEM CUSTOMERS.

Aside from a faster burn rate through the available incentives, another potential negative result of the increase in the incentive cap, as noted by FCE, could be that a small group of customers may end up monopolizing the available incentives by installing multiple larger systems.[6] This is of particular concern in CCSE's program area due to its relatively small size and budget compared to the

[4] id. at page 8.
[5] id. at page 9.
[6] id.

other program areas. To prevent this, CCSE proposes the development of an incentive approach alternative to the payment of a flat incentive rate for all 3 MW. One example of an alternative approach might include a tiered incentive that pays 100% of the incentive rate for systems up to 1 MW, then 50% of the incentive rate from 1 MW to 2 MW, and finally 25% of the incentive rate from 2 MW to 3 MW.[7]

For reference, of CCSE's 176 active or complete SGIP projects, nine (9) projects are greater than 900 kW. These nine have an average installed system size of 1.86 MW. Six (6) of the projects are non-photovoltaic (PV) technologies, i.e., fuel cells, gas turbines, IC engines, and three (3) are PV. In total, an additional 7.74 MW would have been eligible for incentives had the increased incentive cap already been in effect.

V. CCSE ENCOURAGES THE COMMISSION TO ENGAGE IN A THOROUGH ANALYSIS OF SGIP BUDGETARY NEEDS AND ANY POTENTIAL IMPACTS RESULTING FROM THE CHANGE, INCLUDING THOSE SUPPORTED AND PROPOSED BY CCSE IN THIS RESPONSE.

While CCSE supports the increase of the SGIP incentive cap from 1 MW to 3 MW for all eligible SGIP renewable technologies, we believe that the impacts of this change should be evaluated in detail before implementation. Thus, we encourage the Commission to engage in a thorough analysis of SGIP budgetary needs and any potential impacts resulting from changes, including those supported and proposed by CCSE in this response. For example, with respect to CCSE's proposed incentive approach alternative, development of actual tier allocations would benefit from a more thorough review by the Commission, the PAs, and/or third-party contractors. A thorough analysis of budgetary impacts and any potential impacts resulting from the change will allow for adequate planning of the SGIP and ensure its future success.

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[7] Please note that these percentages are arbitrary and for example only.

VI. CONCLUSION

CCSE supports the modification of Decision 04-12-045 to increase the SGIP incentive cap from 1 MW to 3 MW for all eligible SGIP renewable technologies, and recommends that the change not take effect during the current program year and not be retroactively applied. CCSE agrees that the SGIP budget will need to be increased in order to handle the resulting increase in program participation. Furthermore, CCSE proposes that an incentive approach alternative be developed to prevent monopolization of SGIP funds by only a few larger system customers. Lastly, CCSE encourages the Commission to engage in a thorough analysis of SGIP budgetary needs and any potential impacts resulting from the change, including those supported and proposed by CCSE in this response, before implementation of the incentive cap increase.

CCSE appreciates the opportunity to provide this response to FCE's Petition for Modification and looks forward to our continued role in the successful implementation of the SGIP.

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of this response to FuelCell Energy's *Petition for Modification of Decision 04-12-045* on all known parties of record in this proceeding by delivering a copy via email to the current service list.

Executed on August 24, 2007 in San Diego, CA.

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